DEATH — WRONGFUL ACT — RIGHT OF ACTION. — B. & O. R. R. Co., v. CHAMBERS, 76 N. E. 91, (OHIO). *Held,* that no action can be maintained in the courts of Ohio upon a cause of action for wrongful death occurring in another state, except where the person wrongfully killed was a citizen of the State of Ohio.

This case lays down a comparatively new rule in this country. In general, whenever, by common law or statute, a right of action has become fixed and a legal liability incurred, that liability, if the action be transitory, may be enforced and the right of action pursued in the courts of any state which can obtain jurisdiction of the defendant, provided it is not against the public policy or the laws of the state where it is sought to be enforced, *Herrick v. Minneapolis & St. Louis R. R. Co.,* 31 Minn. 11; *Atchison, Topeka & Santa Fe R. R. Co. v. Keller,* 76 S. W. 801; *St. Louis & C. R. R. v. Brown,* 62 Ark. 254. Such action is on the same footing as to its transitory nature as an action of tort at common law, where statutes are substantially similar, and the exercise of comity between states is not prejudicial to the state's own citizens, *Leonard v. Columbia Steam Navigation Co.,* 84 N. Y. 48; *Chafee v. Fourth National Bank of New York,* 71 Me. 514. The courts of Maryland hold, however, that no action can be maintained upon a statute of this kind if the deceased person received the injury at a place not within the limits of the state. *Allen v. Pitts. & C. R. R. Co.,* 45 Md. 41. The courts of New York will not take jurisdiction of an action between non-residents for a tort committed in another state, unless special circumstances exist. *Collard v. Beach, 81 N. Y.* Supp. 619. The discrimination between residents and non-residents is probably based upon reason of public policy and the courts of New York should not be vexed with litigation between non-resident parties over causes of action which arose outside of its territorial limits. *Robinson v. Oceanic Steam Navigation Co.,* 112 N. Y. 315. Affirmed in *Hoes v. N. Y., N. H. & H. R. R. Co.,* 173 N. Y. 435.

DEDICATION — LIMITED TO PUBLIC USE. — YOUNG V. LANDIS TP. ET AL., 62 ATL. REP. 1133. (N. J.). *Held,* that land may be dedicated to a restricted public use, and, if accepted, must be taken for the limited purpose only. Therefore the township had no authority to widen the driveway as proposed by an ordinance.

Dedication of land to the public may be so made as to indicate the specific public use which is intended, as for a footpath, etc., and acceptance of such a dedication would be limited to the use designed, *Mercer v. Woodgate, L. R.* 5 Q. B. 26; *Trustees of M. E. Church v. City of Hoboken,* 33 N. J. Law, 13; *City of Buffalo v. Delaware L. & W. R. R. Co.,* 39 N. Y. Supp. 4. The chief reason for these decisions is that the dedication is considered as being in the nature of a gratuity, therefore any limitation, condition, etc., attached to or imposed upon the grant will be upheld. Nothing passes to the public but the easement, the fee remains in the original owner. *Cincinnati v. White,* 6 Pet. 431. In the absence of expressed and formal dedication and acceptance, it may be effectuated by the acts, declarations and acquiescing conduct of the parties through such a period of time as will give rise to the conclusive interference of intent to dedicate and to accept. *Cook v. Harris,* 61 N. Y. 448. A use by the public at least for twenty years

has frequently been held to be evidence of the acceptance of a dedication, *Washburn on Easements*, p. 197; *Angell on Highways*, §162.

DIVORCE — SEPARATION FROM BED AND BOARD — EVIDENCE. — HARRISON *v.* HARRISON, 40 So. 232 (LA.). — In weighing the facts in a suit for separation from bed and board, *held*, that the court will be mindful that there may have been in the life of the parties a great deal which, owing to the mouth of the plaintiff being sealed, it may have been impossible to bring to the attention of the court.

The complainant in a divorce case is under the obligation to establish, by full, clear and adequate evidence, the charges made in his bill, and not merely to create inference, suspicion or doubt. *Hampton v. Hampton*, 87 Va. 148. Divorces ought never to be decreed without clear and satisfactory evidence of the wrong which the law treats as justifying cause for a divorce. *Edmond's Appeal*, 57 Pa. St. 232. And the complaining party must prove every element of the offense. *Bishop on Marriage and Divorce*, 6th Ed., Vol. II., §279. However it is not necessary to prove the allegations of the charge beyond a reasonable doubt, but it is sufficient if they be established by a preponderance of evidence. *Smith v. Smith*, 5 Or. 186. Yet the evidence must be "full and satisfactory" before the court can proceed to decree a divorce. *Moore v. Moore*, 22 Tex. 237. It is not sufficient for the court to have a moral conviction of the guilt of the party: it must be satisfied that such conviction is founded on legal evidence, applicable to legal charges. *Caton v. Caton*, 13 Jur. 431. So a party asking a court for a divorce must prove a full and complete case. Nothing is to be taken in favor of the applicant by presumption or intendment as to the facts. *Linden v. Linden*, 36 Barb. 61. The principal case is peculiar in that the court inferred that important testimony might have been tendered if it had not been excluded by a rule of evidence. And each inference was considered of weight.

EMINENT DOMAIN — PUBLIC USE — EFFECT OF LEGISLATIVE ACTION. — TANNER V. TREASURY TUNNEL MINING AND REDUCTION CO., 83 PAC. 464 (COLO.). *Held*, that while the judgment of the legislature in conferring the power of eminent domain for certain purposes is not conclusive on the courts on the question of public use, it is entitled to great weight.

The determination of the legislature is not conclusive that a purpose for which it directs private property to be taken is a public use. *Talbot v. Hudson*, 82 Mass. 417; *Arnsperger v. Crawford*, 61 Atl. 413. Whether a particular use for land is public or not is a question for the judiciary. *Call v. Town of Wilkesboro*, 115 N. C. 337. There seems to be some conflict as to who shall judge of the necessity. Whether a public highway, which is for public use, is a necessity or not is a question for the legislature to determine. *Call v. Town of Wilkesboro, Supra.* The legislature is the final judge as to the necessity of taking private property for public use. *Glover v. Lime Point*, 18 Cal. 229; *Concord Rw. v. Greely*, 17 N. H. 47. The right of determining the necessity may be delegated and courts and juries may be called upon to determine as to its necessity. *Water Works Co. of Indianapolis v. Burkhart*, 61 Ind. 364. Question of necessity may be vested in courts by statute. *Wheeling & L. E. R. R. Co., v. Toledo Ry. & Term. Co.*, 74 N. E. 209. *Paul v. Detroit*, 32 Mich. 108, is *contra* and holds that the necessity for such use is the subject of judicial inquiry only.